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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,918	01/03/2005	Gavriel J. Iddan	P-4877-US	2690

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EXAMINER	
FOREMAN, JONATHAN M	

ART UNIT	PAPER NUMBER
3736	

MAIL DATE	DELIVERY MODE
11/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/519,918	IDDAN ET AL.	
	Examiner	Art Unit	
	JONATHAN ML FOREMAN	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 August 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *12,27,30,37,38 and 40-47* is/are pending in the application.

4a) Of the above claim(s) *30 and 38* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12,27,37 and 40-47* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in the reply filed on 8/25/08 is acknowledged. The traversal is on the ground(s) that groups I and II contain the same corresponding special technical features that are not taught or obvious to others. This is not found persuasive because the corresponding features do not constitute a special technical feature because the features are known or obvious to one having ordinary skill in the art (See Below).

The requirement is still deemed proper and is therefore made FINAL.

2. This application contains claims 30 and 38 drawn to an invention nonelected with traverse. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 12, 27, 37 and 40 – 47 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 37 includes the limitation "wherein said pressure data displayed is measured at a corresponding capture time of the image displayed simultaneously". Applicant asserts that support for this limitation can be found on page 11, lines 24 – 27 which states "Depending on whether or not an imager or other sensor is included, the information obtained by device 40 may be, for

example, a combination of endo-luminal pressure information and image data on the endoluminal environment at the site correlating to the specific pressure data.." However, this passage supports the pressure data being and image data being measured from the same site, but fails to disclose being measured at a corresponding capture time.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 12, 37 and 40 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0106849 to Cho et al. in view of U.S. Patent No. 3,939,823 to Kaye et al. and U.S. Patent No. 6,419,626 to Yoon.

In regard to claims 12, 37 and 40 – 47, Cho et al. disclose a swallowable imaging device for collecting in vivo images and in vivo pressure data including a housing having an optical dome (20), a shell; an imaging system (30) enclosed in the housing behind the optical dome; a pressure gauge (100); and a transmitter (50) to transmit in vivo pressure data. The imaging system includes and imager, illumination elements (42, 44) to illuminate and in vivo area and an optical element to focus reflected light onto the imager [0020]. The optical dome is a barrier to body fluids. Cho et al. includes an illumination unit [0009]. The illumination unit is considered to produce illumination in proportion to a signal from the pressure gauge in that the illumination unit produces illumination and the pressure gauge produces a signal. Cho et al. disclose a pressure sensor but fail to disclose the sensor including a pliant sleeve surrounding the shell, the pliant sleeve defining a space between

the shell and the sleeve, the space being filled with a dielectric liquid; and a pressure gauge immersed in the dielectric liquid. Kaye et al. disclose a device for collecting in vivo pressure data including a pliant sleeve surrounding a shell, the pliant sleeve defining a space between the shell and the sleeve, the space being filled with a dielectric liquid; and a pressure gauge immersed in the dielectric liquid (Col. 2, lines 47 – 65). The pressure gauge is attached to the shell and to the sleeve via the shell. The claims would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. Because both Cho et al. and Kay et al. teach in vivo pressure measuring devices, it would have been obvious to one skilled in the art at the time of the invention to substitute one pressure measuring sensor for the other to achieve the predictable results of obtaining better pressure measurements within internal body cavities (Col. 1, lines 46 – 48). Cho et al. discloses a display for displaying in-vivo images provided by the imaging system [0006]. Additionally, Cho et al. discloses transmitting the pressure data externally of the body [0034], but fails to disclose displaying the pressure data simultaneously with corresponding in-vivo images, the pressure data displayed being measured at a corresponding capture time of the image being displayed. However, Yoon discloses a system for collecting and displaying in vivo data including a display which displays pressure data (Col. 11, lines 41 – 46) simultaneously with corresponding in-vivo images, the pressure data displayed being measured at a corresponding capture time of the image being displayed (Col. 11, lines 15 – 27). The claim would have been obvious because a particular known technique was recognizes as part of the ordinary capabilities of one skilled in the art. It would have been obvious to one having ordinary skill in the art at the time of the invention to apply the technique of displaying pressure data simultaneously with in-vivo images as taught by Yoon to improve the system of Cho et al. for the predictable result of allowing a user to view all of the data produced by the device.

7. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0106849 to Cho et al. in view of U.S. Patent No. 3,939,823 to Kaye et al. and U.S. Patent No. 6,419,626 to Yoon as applied to claim 37, and further in view of U.S. Patent Application Publication No. 2003/0191430 to D'Andrea et al.

In regard to claim 27, Cho et al. in view of Kaye et al. and Yoon disclose receiving the pressure data, and analyzing the pressure data. However, Cho et al. in view of Kaye et al. and Yoon fail to disclose determining the location of the in-vivo device based on the pressure data. However, D'Andrea et al. teaches an in-vivo measuring device wherein the pressure data is analyzed to determine the location of the device [0050][0051]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to analyze the pressure data as disclosed by Cho et al. in view of Kaye et al. and Yoon to determine the location of the device as taught by D'Andrea et al. in order to better position the device at a desired site during use of the device.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JONATHAN ML FOREMAN whose telephone number is (571)272-4724. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571)272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. M. F./
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736